

§ 70.124

(3) For restrictions on the assignment of claims, see 31 U.S.C. 3727.

(Approved by the Office of Management and Budget under control number 1512-0141)

(26 U.S.C. 6402)

[T.D. ATF-251, 52 FR 19314, May 22, 1987. Re-designated and amended by T.D. ATF-301, 55 FR 47606, 47615, Nov. 14, 1990; T.D. ATF-450, 66 FR 29025, May 29, 2001]

§ 70.124 Payments in excess of amounts shown on return.

In certain cases, the taxpayer's payments in respect of a tax liability, made before the filing of the taxpayer's return, may exceed the amount of tax shown on the return. In any case in which the appropriate TTB officer determines that the payments by the taxpayer (made within the period prescribed for payment and before the filing of the return) are in excess of the amount of tax shown on the return, the appropriate TTB officer may make credit or refund of such overpayment without awaiting examination of the completed return and without awaiting filing of a claim for refund. However, the provisions of § 70.123 of this part are applicable to such overpayment, and taxpayers should submit claims for refund to protect themselves in the event the appropriate TTB officer fails to make such determination and credit or refund.

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(26 U.S.C. 6402)

[T.D. ATF-301, 55 FR 47616, Nov. 14, 1990]

§ 70.125 Abatements.

(a) The appropriate TTB officer may abate the unpaid portion of any assessment or liability, if the assessment is in excess of the correct tax liability, if the assessment is made subsequent to the expiration of the period of limitation applicable thereto, or if the assessment has been erroneously or illegally made.

(b) If more than the correct amount of tax, interest, additional amount, addition to the tax, or assessable penalty is assessed but not paid to TTB, the person against whom the assessment is made may file a claim for abatement of such overassessment. Each claim for

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abatement under this section shall be made on Form 2635 (5020.8), Claim—Alcohol, Tobacco and Firearms Taxes, in accordance with the instructions on the form. All such claims must be filed with the appropriate TTB officer who made demand for the amount assessed.

(c) The appropriate TTB officer may issue uniform instructions to abate amounts the collection of which is not warranted because of the administration and collection costs.

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(26 U.S.C. 6404)

[T.D. ATF-301, 55 FR 47616, Nov. 14, 1990, as amended by T.D. ATF-450, 66 FR 29025, May 29, 2001]

§ 70.126 Date of allowance of refund or credit.

The date on which the appropriate TTB officer, first certifies the allowance of an overassessment in respect of any internal revenue tax imposed by the provisions of 26 U.S.C. enforced and administered by the Bureau shall be considered as the date of allowance of refund or credit in respect of such tax.

(26 U.S.C. 6407)

[T.D. ATF-301, 55 FR 47616, Nov. 14, 1990, as amended by T.D. ATF-450, 66 FR 29025, May 29, 2001]

§ 70.127 Overpayment of installment.

If any installment of tax is overpaid, the overpayment shall first be applied against any outstanding installments of such tax. If the overpayment exceeds the correct amount of tax due, the overpayment shall be credited or refunded as provided in §§ 70.122 to 70.124 of this part, inclusive.

(26 U.S.C. 6403)

[T.D. ATF-301, 55 FR 47616, Nov. 14, 1990]

RULE OF SPECIAL APPLICATION

§ 70.131 Conditions to allowance.

(a) For regulations under section 6416 of the Internal Revenue Code, see part 53 of this chapter, relating to manufacturers excise taxes on firearms and ammunition.

(b) For regulations under section 6423 of the Internal Revenue Code, see part 29 of this chapter, relating to distilled